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JUL 26 2005

OFFICE OF PETITIONS

In re Application of	:	
Neal et al.	:	
Application No. 10/828,836	:	DECISION ON PETITION
Filed: 21 April, 2004	:	
Attorney Docket No.:1505800-050745	:	

This is a decision on the renewed petition filed on 6 May, 2005, under 37 C.F.R. §1.47(a).

The petition is **GRANTED**.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was filed on 21 April, 2004, absent, *inter alia*, a fully executed oath/declaration;
- on 8 July, 2004, the Office mailed a Notice of Missing Parts;
- on 11 January, Petitioner replied with the original petition and fee (with a request and fee for extension of time) with an oath/declaration signed by Messrs. Neal and Dietz, but without the signature of non-signing inventor Daniel R. Smith (Mr. Smith), and with a statement by Petitioner Richard M. Mescher (Reg. No. 38,242) and statement by Dominic Federico (President and CEO of the alleged assignee), and the petition was dismissed on 8 March, 2005, *inter alia*, because the latter statement clearly indicated that Petitioner has failed to transmit to the non-signing inventor Mr. Smith a copy of the entire application



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors: Michael J. Neal, Doug Dietz, and Daniel R. Smith
Serial No.: 10/828,836
Filing Date: April 21, 2004
Title: "GAS CYLINDER WARMER WITH VARIABLE
WATTAGE SELF REGULATING HEATER"
Examiner: tbd
Art Unit: tbd
Attorney Docket: 1505800-050745

RENEWAL PETITION UNDER 37 C.F.R. 1.47(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Co-Inventors Michael J. Neal and Doug Dietz hereby request the Commissioner reconsider the Decision on Petition mailed on March 8, 2005 and accept the filing of the above-identified U.S. Patent Application by other than all of the inventors.

The present application for patent has three co-inventors. Two of the co-inventors joined the present application while one of the co-inventors refused to join the present application. A Statement of Facts signed by Domenic Federico, president/CEO of BH Thermal Corporation and a Statement of Facts signed by myself are attached hereto to provide proof of the pertinent facts concerning the refusal of the third co-inventor to join the present application.

The name and last known address of the co-inventor refusing to sign is as follows:

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contributed to the development of the invention, has a duty to jointly execute an application for patent covering the invention and to assign the invention, patent application, and any patent which issues thereon to BH Thermal Corporation

This petition for filing by other than all the inventors under 37 C.F.R. 1.47(a) was filed on January 7, 2005. In a Decision On Petition mailed March 8, 2005, this petition was dismissed because proof of a bona fide attempt to present a copy of the application papers to the nonsigning inventor for signature was not provided.

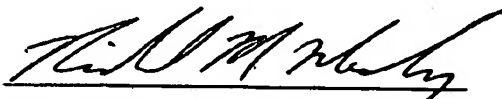
Subsequent to receiving the Decision On Petition, a complete copy of the application papers (specification, including claims and drawings, and declaration) were mailed via certified mail to the Mr. Smith along with a request for execution of the application papers. The application papers were mailed to the last known address identified above. In a subsequent telephone call, Mr. Smith confirmed receipt of the application papers and orally made an express refusal to sign the application papers.

In view of the oral express refusal of co-inventor Daniel R. Smith to execute the application papers required for filing the present patent application, co-inventors Michael J. Neal and Doug Dietz are believed to be entitled to make such application on behalf of and as agent for their co-inventor Daniel R. Smith.

If there are any fees resulting from this communication, please charge same to our Deposit Account No. 16-2326.

Respectfully submitted,
PORTER, WRIGHT, MORRIS & ARTHUR LLP

May 4, 2005



Richard M. Mescher, Reg. No. 38,242

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